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Text:

UNCLAS ABU DHABI 00841

SIPDIS  
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ACTION: AMB  
INFO: DCM FCS POL ECON

DISSEMINATION: AMB  
CHARGE: PROG

APPROVED: AMB:MJSISON  
DRAFTED: ECON:AECURTIS  
CLEARED: DCM:RABLBRIGHT, ECON:OJOHN, CGD:MCARVER

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DE RUEHAD #0841/01 0540758  
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FM AMEMBASSY ABU DHABI  
TO RUEHC/SECSTATE WASHDC PRIORITY 8334  
INFO RUCNWTO/WORLD TRADE ORGANIZATION COLLECTIVE  
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UNCLAS SECTION 01 OF 03 ABU DHABI 000841

SIPDIS

SENSITIVE

STATE FOR EB/IPE FOR SWILSON  
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E.O. 12958: N/A  
TAGS: [KIPR](#) [PREL](#) [ETRD](#) [TC](#)  
SUBJECT: EMBASSY ABU DHABI COMMENTS ON SPECIAL 301 REVIEW

REF: A. A) SECSTATE 23950

- [B. B\) ABU DHABI 2980](#)
- [C. C\) ABU DHABI 1824](#)
- [D. D\) ABU DHABI 577](#)
- [E. E\) DUBAI 4573](#)

[1](#)1. (SBU) Summary and comment: The UAE Government remains strongly committed to protecting intellectual property rights (IPR). The UAE continues to enforce copyright, trademark, and patent laws passed in 2002 to protect U.S. intellectual property, and remains committed to the 2002 agreement providing TRIPS-plus levels of protection to U.S. pharmaceuticals. When Embassy and industry representatives confronted UAEG officials with incidents of pharmaceutical patent infringement, the UAEG resolved the problems on behalf of the U.S. companies. Additionally, the UAE conducted a number of high-profile raids to arrest merchants involved in optical media piracy. We strongly recommend that the UAE not be included in the Special 301 Watchlist this year. Post recommends that we use the opening of FTA negotiations to work with the UAEG to continue making improvements in the IPR regime.

High-level UAEG Commitment Generates IPR Success Stories  
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[1](#)2. (U) Intent on meeting its own IPR commitments and aware that industry concerns regarding IPR violations could have impeded movement toward a Free Trade Agreement with the United States, last spring senior UAE officials personally committed themselves to resolving any outstanding IPR issues.

Minister of Information Sheikh Abdullah bin Zayed al-Nahyan told us that we should alert him personally to any problems with IPR, and UAE Minister of State for Finance and Industry Mohammed Khirbash pledged personal attention to solving the pharmaceutical industry's concerns at the first Trade Investment Framework Agreement (TIFA) Council meetings in April 2004.

13. (SBU) Following the April TIFA Council meetings, Embassy officers and pharmaceutical representatives worked with the UAEG and reached a solution to address companies' concerns about patent infringement. The Ministry of Health issued a ministerial decree revoking the registration of 4M6 (a Viagra composite, whose registration and sale violated Pfizer's patent) and it notified pharmacies that Satibo and Trex (also Viagra composites) were not registered and ordered they be withdrawn from the market (ref B).

#### TRIPS Compliance

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14. (U) In 2004, the UAEG continued to expand the scope of the copyright, trademark, and patent laws issued in 2002 (that exceed the UAE's TRIPS obligations) by issuing four new regulations. The most significant regulation allows for specialized collecting societies, which provide a mechanism for recording companies to collect royalties on the broadcast and performance of copyrighted material. The other three regulations cover registration of works, registration of importers and distributors, and licensing translations of copyrighted material.

15. (SBU) The Ministry of Health (MOH) also took steps to ensure that local merchants and health authorities understood the UAE's TRIPS obligations. In a series of early summer meetings, MOH officials told Econchief that Ministry officials planned to meet with the general director of every health authority in the UAE to put an end to the purchase of unregistered drugs through unauthorized suppliers (ref C). Khalid al-Bustani, UAE Ministry of Finance Assistant Undersecretary also told Econchief that the MOH would instruct the various health authorities about the details of the UAEG's commitments under the 2002 MOU between PhRMA and the UAE (this MOU ensures TRIPS-plus level of protection for pharmaceutical patents and affords 5-year data exclusivity protection for 25 U.S. patent-protected products).

#### Enforcement

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16. (U) Periodic articles in the local newspapers of raids and arrests of counterfeiters indicate that the authorities take seriously their responsibility to reduce the trade of counterfeit goods in the UAE and do not hesitate to publicize the results of enforcement actions. The following are a few examples of reports appearing in local media:

-- In March 2004, the Ministry of Information, in cooperation with Abu Dhabi TV, filmed an undercover sting operation that seized dozens of CDs and copyrighted software at a computer store in Abu Dhabi (ref D).

-- In June 2004, the Ministry of Information and Culture conducted a large-scale raid on five UAE based resellers dealing in illegal software. During the raid, 88 counterfeit CDs loaded with illegal programs and pirated software were seized.

-- In September 2004 Dubai Police conducted three raids that resulted in the arrest and conviction of nine South Asians for selling pirated CDs. Acting on tips from the Dubai-based Arabian Anti-piracy Alliance (AAA), the Dubai police set up the sting operation and confiscated more than 6,000 video and software CDs (ref E).

-- In November 2004, ten computers loaded with illegal

software were confiscated from a pharmaceutical company.

-- In November 2004, the Dubai Court sentenced four Indians to three months in jail for distributing pirated DVDs and CDs. After serving their sentence, they will be deported.

-- In February 2005, a Sharjah retailer took out an add in a local newspaper publicly apologizing for selling counterfeit DeWalt products and promised Black & Decker that he would not deal in counterfeit products again.

¶7. (U) In an effort to crack down on door-to-door vendors selling optical media, the Dubai Department of Economic Development began fining restaurant and cafe owners if it found vendors selling pirated CDs in their establishments. A representative from the AAA said that restaurants have begun posting warning signs, with the Dubai police logo, highlighting the penalties for sales of pirated CDs.

¶8. (U) The Ministry of Information and the Dubai police, acting on information from the AAA, have taken action against individuals and merchants distributing illegal satellite subscription cards, in one case sentencing a card distributor to a full year of imprisonment (ref E).

¶9. (U) According to statistics from the Ministry of Information and Culture, Dubai police conducted 122 seizures of pirated optical media and computer software in 2004, Dubai airport authorities made 31 seizures, and the Ministry of Information conducted 253 raids. In total, UAE officials confiscated over 275,000 pirated items. The International Federation of the Photographic Industry has expressed concerns about IPR enforcement, citing statistics that indicate the total number of seized items decreased from last year. It estimates that music piracy increased to 15% in 2004 (up from 10% in 2003). The IFPI uses this statistic to claim that IPR enforcement in the UAE is slipping, but we note that a decline in the number of goods seized could be from lax enforcement and fewer raids, or from fewer items actually being brought into the country and dealt in the market. The Director General of the Federal Customs Authority has asked the Embassy to help facilitate meetings with IPR organizations to better coordinate efforts.

#### Industry Officials Pleased with UAE Progress

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¶10. (U) Anecdotaly, local industry officials are pleased with progress the UAE has made in the realm of IPR enforcement, and they do not support placing the UAE on the watchlist. In fact, an official with the AAA (which represents the Motion Picture Association of America) said he would actively fight efforts to put UAE on the Special 301 watchlist. He said that placing UAE on the watchlist would provide a disincentive to other countries in the region from making improvements. He needs to be able to make the point to other countries that by addressing IPR concerns, they can be removed from the watchlist, and he points to UAE as an example.

¶11. (U) According to the regional official in charge of IP enforcement for Ford Motor Company, Ford has not had problems with the UAE this year. He said that UAE officials have been willing to talk about and work toward solutions to the counterfeit autoparts problem, and he is pleased with the progress they have made. According to him, Ford did not provide any information to police or customs authorities in 2004 requesting raids or law enforcement actions.

#### Recommendation: No Watchlist

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¶12. (U) For these reasons, Embassy officials strongly urge that the UAE remain off of the 2005 Special 301 Watchlist. We agree that there is room for improvement, and in particular, we support the idea of encouraging the UAEG to provide IP owners with information that would permit them to

pursue the producers and manufacturers of pirated goods in source countries. However, we note that the UAE has taken considerable strides in enforcing IPR regulations, prosecuting violators, and publicizing law enforcement actions. Placing the UAE on the watchlist would send a signal to the UAEG that we are not appreciative of their efforts, and we believe that such a signal is inappropriate and inaccurate. The UAE is a solid partner in IPR enforcement, and we want to continue to work with the government and industry and encourage them to further their efforts by offering carrots, and not pulling out the sticks.

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